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LawTalk Blog



What are the capital gains tax consequences of compulsory acquisition of land or business?

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The capital gains tax ("CGT") consequence in relation to land compulsorily acquired can be quite complex. The landholding may be a post-CGT asset, a pre-CGT asset or it may be exempt as a principal place of residence. In some cases one owner may have a pre-CGT interest (property acquired prior to 20 September 1985) and another a post-CGT interest (property acquired on or after 20 September 1985).

What if my land is a pre-capital gains tax property?

If the land is a pre-CGT property used as an investment, the property owner will need to consider the roll over provisions of the *Income Tax Assessment Act*. The property owner may be able to acquire a replacement property within a certain timeframe and up to a certain value which for tax purposes will be treated as a pre-CGT asset.

What if my land is a post-capital gains tax asset?

If the property acquired is a post-CGT asset, the property owner may be able to purchase another property as a replacement and may be entitled to use the compensation money as part of the purchase price of the replacement without paying CGT on the compensation money received for the financial year of receipt. This defers the CGT to a later date.

There are various time limits and special rules in all of these matters and further rules where land is owned as a partnership, whether by a spouse or by other business partners.

A person whose land is acquired is entitled to receive their legal and valuation costs paid as part of any compensation. If you receive an approach from the Department of Planning, Transport and Infrastructure concerning compulsory acquisition affecting your business or property then contact [Toni Monteleone](#) or the Andersons [commercial team](#) for advice.

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